

MAINE STATE LEGISLATURE

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N I N E T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 1197

H. P. 1055

House of Representatives, February 26, 1953

Referred to the Committee on Legal Affairs, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Trafton of Auburn

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Amending the Charter of the City of Auburn.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. P. & S. L., 1917, c. 201, Art. V, § 8, amended. Section 8 of article V of chapter 201 of the private and special laws of 1917 is hereby amended to read as follows:

Sec. 8. Form of ballot; candidates' names to be arranged by lot. The names of the candidates nominated as provided in the preceding section shall be arranged according to lot under the title of the office to be filled. Lot shall be drawn by the city clerk, at which drawing the candidates or their representatives shall be entitled to be present. The ballots shall be without party mark or designation. The full name and residence of each candidate shall be given. At the left of each name shall be a square within which the voter shall place a cross **or a check mark** to designate his choice. Blank spaces shall be left at the end of the list of the candidates for each office, in which the voter may insert the name of any person not printed on the ballot, for whom he desires to vote.

The ballot shall be printed substantially as follows:

CITY OF AUBURN
 Ward ()
 REGULAR (OR SPECIAL) CITY ELECTION
 (Date)
 OFFICIAL BALLOT
 INSTRUCTIONS TO VOTERS

To vote for any candidate mark a cross (X) or a check mark (✓) in the square at the left of the name.

If you wrongly mark, tear or deface the ballot return it and obtain another.

For MAYOR		
<input type="checkbox"/>	John Doe	(Res.)
<input type="checkbox"/>	Richard Roe	(Res.)
<input type="checkbox"/>		(Res.)
For COUNCIL		
<input type="checkbox"/>	John Smith	(Res.)
<input type="checkbox"/>	William White	(Res.)
<input type="checkbox"/>		(Res.)
For SUPERINTENDING SCHOOL COMMITTEE		
<input type="checkbox"/>	Charles Brown	(Res.)
<input type="checkbox"/>	Joe James	(Res.)
<input type="checkbox"/>		(Res.)
For WARDEN		
<input type="checkbox"/>	William Doe	(Res.)
<input type="checkbox"/>	Charles Roe	(Res.)
<input type="checkbox"/>		(Res.)
For WARD CLERK		
<input type="checkbox"/>	John Jones	(Res.)
<input type="checkbox"/>	Charles White	(Res.)
<input type="checkbox"/>		(Res.)
Mark a cross (X) or a check mark (✓) in the square at the left of your answer.		
<input type="checkbox"/>	Yes	Shall
<input type="checkbox"/>	No?
<input type="checkbox"/>	Yes	Shall
<input type="checkbox"/>	No?'

Sec. 2. P. § S. L., 1917, c. 201, Art. VI, § 3, sub-§§ (2) and (9), amended. Subsections (2) and (9) of section 3 of article VI of chapter 201 of the private and special laws of 1917, as amended by section 2 of chapter 69 of the private and special laws of 1939 and by section 10 of chapter 47 of the private and special laws of 1943, are hereby further amended to read as follows:

'(2) All appointments to the office of city marshal, chief of the fire department and city electrician shall be made by the city manager from the eligible list prepared by the civil service commission. At the request of the city manager, the commission shall submit 3 names for each vacancy.

Appointments to offices of chief of fire department, city marshal and city electrician shall be during good behavior, and shall terminate when the appointee shall have attained his 65th birthday.

Any appointee to the offices of chief of fire department and city marshal, who, prior to said appointment, shall have been a member of the fire department or of the police department, if he shall resign said office or be removed therefrom for any cause other than a cause involving moral turpitude, shall remain a member of the department from which he was appointed and shall return to the grade or rank which he held at the date of his appointment.

If there shall be a vacancy in the office of chief of the fire department or city marshal, until a person shall have been appointed to permanently fill said vacancy, the city manager may designate one of the members of said department in which said vacancy exists as acting chief of the fire department or acting city marshal and said acting chief of the fire department shall be vested with all the powers and duties of the regular chief thereof during such period of time as he shall so act and the acting city marshal shall be vested with all the powers and duties of the regular city marshal during such period of time as he shall so act.'

'(9) Promotion from one grade to another in the police and fire departments shall be made by the chief of the respective departments but no person shall be eligible for promotion until he shall have served at least 12 months in the next lower grade or rank, and if there shall be no person in the next lower grade or rank eligible for promotion or if there shall be an insufficient number of persons in the next lower grade or rank eligible for promotion to fill the positions vacant then all persons in the grade or rank next below the grade or rank next lower than the grade or rank to which the promotion is to be made shall be eligible for said promotion.'

Sec. 3. P. & S. L., 1917, c. 201, Art. VI, § 10, amended. Section 10 of

article VI of chapter 201 of the private and special laws of 1917 is hereby amended to read as follows:

'Sec. 10. Assessors of taxes; appointment, tenure of office; vacancies, powers and duties. At its first meeting in January, 1918, or as soon thereafter as may be, the city council shall appoint 3 assessors of taxes, 1 for a term of 1 year, 1 for a term of 2 years, and 1 for a term of 3 years; and annually thereafter there shall be appointed by the city council 1 assessor for a term of 3 years. The assessors shall hold office until their successors are appointed and qualified. If for any reason, a vacancy occurs in the membership of the board of assessors, the vacancy shall be filled forthwith by the council, for the unexpired term. The assessors thus appointed shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the state may exercise, and are subject to, under the laws of the state.

The city council at the meeting for organization thereof following the regular city election, or as soon thereafter as may be, shall designate 1 member of the board of assessors to be the chairman thereof and the city council shall by ordinance prescribe the powers and duties of the chairman of said board of assessors with respect to the administrative functions of said board of assessors.'

Sec. 4. P. & S. L., 1917, c. 201, Art. VI-A, § 4, repealed and replaced. Section 4 of article VI-A of chapter 201 of the private and special laws of 1917, as enacted by chapter 89 of the private and special laws of 1941, is hereby repealed and the following enacted in place thereof:

'Sec. 4. Eligibility.

1. When any present regular member of the said police department, including the city marshal, shall have arrived at the age of 65 years, he shall be deemed to be incapacitated for further useful service in said department, and his honorable discharge shall be given him by the city council upon receipt of a proper certificate from said pension commission whereupon he shall automatically become eligible for all benefits of said pension.

Any regular member of said police department, including the city marshal, who after the effective date of this act shall be appointed thereto shall not be entitled to the pension benefits prescribed by this article, as amended.

2. When any present regular member of said police department, including the city marshal, shall have arrived at the age of 60 years, or shall

have served 25 years in said department, he may petition for the benefits of this article, and his honorable discharge shall be given him by the city council, whereupon he shall automatically become eligible for all benefits of said pension.

3. When any present member of said department shall become totally disabled, he may petition for the benefits of this article, and his honorable discharge shall be given him by the city council, and he shall automatically become eligible for all benefits of said pension. Total disability shall be construed to mean disability resulting from an injury or the contracting of any disease or illness while a member of said department in the course of his employment and without willful negligence on his part which shall permanently prevent such person from performing his duties in said department. Three reputable physicians, one to be appointed by the said pension commission, one by the petitioner and a 3rd to be chosen by the 2 physicians, aforesaid, shall determine whether such disability exists. They shall certify their findings to the said pension commission, whose findings shall be final, and if said physicians are unable to agree, then in such event, the findings of the majority shall be controlling.

4. In the event any present member of said department shall lose his life in the performance of his duty, his widow shall receive all benefits of this pension during such time as her widowhood status is maintained, but in no case to exceed the sum of \$4,000.'

Sec. 5. P. & S. L., 1917, c. 201, Art. VI-A, § 5, repealed and replaced. Section 5 of article VI-A of chapter 201 of the private and special laws of 1917, as enacted by chapter 89 of the private and special laws of 1941, is hereby repealed and the following enacted in place thereof:

'Sec. 5. Amount of pension. Said pension shall be equal, at any given time, to $\frac{1}{2}$ the regular salary at that time received by the member of the said department serving in the same capacity as the pensioner was serving at the time he retired; all pension payments made under the provisions of this section shall be automatically increased or diminished in amount as increases or reductions in the daily pay are allowed by the city council to the regular members of the said department. When, as a result of disability as set forth in section 4 hereof, such member **or widow** receives compensation payments therefor from any other source, ~~payments hereunder shall not commence until such other compensation payments have been terminated~~ the amount paid to such member or widow from said pension fund during the period when said compensation payments are being received

shall be determined by subtracting the amount paid by said compensation payments from the amount otherwise payable under this section.'

Sec. 6. P. & S. L., 1917, c. 201, Art. VI-B, § 4, repealed and replaced. Section 4 of article VI-B of chapter 201 of the private and special laws of 1917, as enacted by chapter 90 of the private and special laws of 1941, is hereby repealed and the following enacted in place thereof :

'Sec. 4. Eligibility.

1. When any present regular member of the said fire department, including the department chief and deputy chief, shall have arrived at the age of 65 years, he shall be deemed to be incapacitated for further useful service in said department, and his honorable discharge shall be given him by the city council upon receipt of a proper certificate from said pension commission whereupon he shall automatically become eligible for all the benefits of said pension.

Any regular member of the said fire department, including the department chief and deputy chief, who after the effective date of this act, shall be appointed thereto shall not be entitled to the pension benefits prescribed by this article, as amended.

2. When any present regular member of said fire department, including the department chief and deputy chief, shall have arrived at the age of 60 years or shall have served 25 years in said department, he may petition for the benefits of this article, and his honorable discharge shall be given him by the city council, whereupon he shall automatically become eligible for all benefits of said pension.

3. When any present regular member of said department, as aforesaid, shall become totally disabled, he may petition for the benefits of this article, and his honorable discharge shall be given him by the city council, and he shall automatically become eligible for all benefits of said pension. Total disability shall be construed to mean disability resulting from an injury or the contracting of any disease or illness while a member of said department in the course of his employment and without willful negligence on his part which shall permanently prevent such person from performing his duties in said department. Three reputable physicians, one to be appointed by the said pension commission, one by the petitioner and a 3rd to be chosen by the 2 physicians, aforesaid, shall determine whether such disability exists. They shall certify their findings to the said pension commission, which findings shall be final, and if said physicians are unable to agree, then in such event, the findings of the majority shall be controlling.

4. In the event any present member of said department shall lose his life in the performance of his duty, his widow shall receive all benefits of this pension during such time as her widowhood status is maintained. Upon her death or remarriage or in the event he leaves no widow, the minor children of the deceased, if any, shall receive during their minority, pro rata, the full benefits of this pension during such time as the said pension commission, in its discretion, may deem necessary and proper.'

Sec. 7. P. & S. L., 1917, c. 201, Art. VI-B, § 5, amended. Section 5 of article VI-B of chapter 201 of the private and special laws of 1917, as enacted by chapter 90 of the private and special laws of 1941, is hereby repealed and the following enacted in place thereof :

'**Sec. 5. Amount of pension.** Said pension shall be equal, at any given time, to $\frac{1}{2}$ the regular salary at that time received by the member of the said department serving in the same capacity as the pensioner was serving at the time he retired; all pension payments made under the provisions of this section shall be automatically increased or diminished in amount as increases or reductions in the daily pay are allowed by the city council to the regular members of the said department. When, as a result of disability as set forth in section 4 hereof, such member or his widow or his minor children receives compensation payments therefor from any other source, ~~payments hereunder shall not commence until such other compensation payments shall have terminated~~ the amount paid to such member or widow or minor children from said pension fund during the period when said compensation payments are being received shall be determined by subtracting the amount paid by said compensation payments from the amount otherwise payable under this section.'

Sec. 8. P. & S. L., 1917, c. 201, Art. VII, § 5, repealed and replaced. Section 5 of article VII of chapter 201 of the private and special laws of 1917, as amended by section 15 of chapter 47 of the private and special laws of 1943, is hereby further amended to read as follows :

'**Sec. 5. Annual appropriation resolve.** Not later than 1 month after the beginning of the fiscal year the council shall pass an annual appropriation resolve, which shall be based on the budget submitted by the city manager, said annual appropriation resolve shall be itemized for each department in at least the following 5 subdivisions: (a) salaries and wages; (b) other services; (c) supplies and materials; (d) fixed charges; and (e) capital outlay.

The total amount appropriated shall not exceed the estimated revenue of the city.

Before the annual appropriation resolve has been passed, the council may make appropriations for current departmental expenses, chargeable to the appropriations of the year when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation resolve is in force.

Should the council take no final action to prepare the annual appropriation resolve on or before the time set forth herein for said action, then the budget, as submitted by the manager, shall be deemed to have been finally adopted by the council.'